REGISTERED No. M. 7463.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VIII] Trivandrum, Sunday, 24th March 1963 / 3rd Chaitra 1885 [No. 52

L. A. Bill No. 19 of 1963.

NOTIFICATION

No. 1771|LA.7|63. *Dated, Trivandrum, 24th March 1963.*

The following Bill together with the Statement of Objects and Reasons, is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Legislature Secretariat,
Trivandrum,

D. TIRUMALAI,
Secretary.
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1963.

THE GENERAL SALES TAX (SECOND AMENDMENT AND VALIDATION) BILL, 1963.

A

BILL

further to amend the General Sales Tax Act, 1125, and to provide for certain other connected matters.

Preamble.—WHEREAS it is expedient further to amend the General Sales Tax Act, 1125, for the purposes hereinafter appearing and to provide for certain other connected matters;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the General Sales Tax (Second Amendment and Validation) Act, 1963.

(2) This section, section 5 and section 6 shall come into force at once, sections 2 and 3 shall be deemed to have come into force on the 30th day of May, 1950, and the provisions of section 4 shall be deemed to have come into force as provided in that section.

2. *Insertion of new section 12A.*—After section 12 of the General Sales Tax Act, 1125 (Act XI of 1125), hereinafter referred to as the principal Act, the following section shall be inserted, namely:—

"12A. *Assessment of escaped turnover.*—

(1) If—

(a) the assessing authority or the licensing authority has reason to believe that by reason of the omission or failure on the part of a dealer or licensee to make a return of his turnover for any year to the assessing authority or the licensing authority, as the case may be, or to disclose fully and truly all material facts necessary for the assessment of his turnover for that year, the whole or any part of his turnover has escaped assessment to tax or has been under assessed or has been assessed at a rate lower than the rate at which it was assessable, or the licence fee leviable was not levied in any year, or it has been levied at a rate lower than the rate at which it was leviable, or,

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the dealer or licensee, the assessing authority or the licensing authority has, in consequence of information in its possession, reason to

believe that the whole or any part of the turnover of a dealer has escaped assessment to tax or has been under assessed or has been assessed at a rate lower than the rate at which it was assessable or the licence fee leviable was not levied in any year or it has been levied at a rate lower than the rate at which it was leviable,

it may, at any time within a period of ten years from the expiry of the year to which the tax or licence fee relates, assess or reassess the tax or levy or revise the licence fee payable on such turnover after service of notice on the dealer or licensee and after making such enquiry as it may consider necessary.

(2) Notwithstanding anything contained in sub-section (1), the notice under that sub-section may be issued at any time for the purpose of making an assessment or reassessment of tax or for the purpose of levy or revision of licence fee in consequence of, or to give effect to any finding or direction contained in, an order passed by any court or other authority in any proceeding under this Act by way of appeal or revision.

(3) The powers under sub-section (1) may be exercised by the assessing authority or the licensing authority even though the original order of assessment of tax or levy of licence fee, if any, passed in the matter has been the subject-matter of an appeal or revision or of any proceedings before a court:

Provided that nothing contained in this sub-section shall invalidate any proceedings already completed by any appellate or revisional authority under rule 33 of the General Sales Tax Rules, 1950.

(4) In computing the period of limitation for the purpose of this section, any period during which the proceedings for assessment of tax or levy of licence fee have been stayed by an order or injunction of a civil court or other competent authority shall be excluded.

3. *Amendment of section 24.*—In sub-section (2) of section 24 of the principal Act, clause (f) shall be omitted.

4. *Amendment of Schedule I, Act XI of 1125.*—(1) In schedule I to the principal Act as it stood before the commencement of the General Sales Tax (Amendment) Act, 1962 (Act 13 of 1962)—

(i) in item 35,—

(a) for the words "cocoanut including copra" the words "coconut and copra" shall be deemed to have been substituted;

(b) the following Explanation shall be deemed to have been inserted at the end, namely:—

"*Explanation*.—Where a tax has been levied in respect of copra, the tax, if any, levied and collected in respect of coconut from which such copra is produced shall be refunded.";

(ii) in item 37,—

(a) for the words "cashewnut including its kernel" the words "cashewnut with or without shells" shall be deemed to have been substituted;

(b) the following Explanation shall be deemed to have been inserted at the end, namely:—

"*Explanation*.—Where a tax has been levied in respect of cashewnut without shell (cashewnut kernel), the tax, if any, levied and collected in respect of the cashewnut with shell from which such kernel is produced shall be refunded.";

(2) The amendments made by sub-section (1) shall be deemed to have come into force on the 1st day of April, 1958, and continued in force upto the commencement of the General Sales Tax (Amendment) Act, 1962 (Act 13 of 1962);

(3) In Schedule I to the principal Act, as amended by the General Sales Tax (Amendment) Act, 1962 (Act 13 of 1962)—

(i) in item 71,—

(a) for the words 'cashewnut including its kernels' the words 'cashewnut with or without shells' shall be substituted;

(b) the following Explanation shall be inserted at the end, namely:—

"*Explanation*.—Where a tax has been levied in respect of cashewnut without shell (cashewnut kernel), the tax, if any, levied and collected in respect of the cashewnut with shell from which such kernel is produced shall be refunded.";

(ii) in item 79,—

(a) for the words 'coconut including copra' the words 'coconut and copra' shall be substituted;

(b) the following Explanation shall be inserted at the end, namely:—

"*Explanation*.—Where a tax has been levied in respect of copra, the tax, if any, levied and collected in respect of coconut from which such copra is produced shall be refunded.".

(4) The amendments made by sub-section (3) shall be deemed to have come into force on the 1st day of April, 1962.

(5) Notification No. H1-15501|58|RD (Notification II) dated the 1st April, 1958, and Notification No. G.O.MS. 323|Revenue dated the 31st March 1962, issued under clause (vii) of section 5 and Notification No. 8572|57|H2|RD dated the 30th September 1958, issued under section 6 of the principal Act shall have, and shall always be deemed to have had, effect, as if for the words "coconut including copra" and "cashewnut including its kernel" in those Notifications were substituted by the words "coconut and copra" and "cashewnut with or without shells" respectively.

5. *Validation of assessment, levy, etc., of taxes and licence fees which escaped assessment.*—Notwithstanding anything contained in the principal Act or in the General Sales Tax Rules, 1950, or in any judgment, decree or order of any court or other authority, all taxes and licence fees assessed, levied or collected or purporting to have been assessed, levied or collected under the principal Act and the General Sales Tax Rules, 1950, shall, for all purposes, be deemed to be, and to have always been assessed, levied or collected under the principal Act as amended by this Act, and accordingly the validity of such assessment, levy or collection shall not be called in question merely on the ground that the assessment levy or collection was made after the period fixed therefor under the General Sales Tax Rules, 1950.

6. *Validation of the levy, collection, etc., of taxes on cashewnut, coconut and copra.*—Notwithstanding anything contained in any judgment, decree or order of any court, authority or tribunal,—

(a) all taxes assessed, levied or collected on or after the first day of April, 1958, on the purchases of cashewnut with or without shells, cononut or copra under the provisions of the principal Act shall for all purposes be deemed to be, and to have always been, validly assessed, levied or collected as if they were assessed, levied or collected under the principal Act as amended by this Act; and

(b) all proceedings taken, orders passed and acts done on or after the first day of April, 1958, by any officer, authority or tribunal for the assessment, levy or collection of tax on the purchases of the goods specified in clause (a) shall for all purposes be deemed to be, and to have always been, taken, passed and done in accordance with law, and all such proceedings, orders and acts may be continued as if taken, passed and done under the principal Act as amended by this Act:

Provided that nothing in this Act shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission was not an offence under the principal Act before the aforesaid date, but for the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The High Court of Kerala while allowing certain writ petitions filed by dealers against the assessment of explanation sales for the years 1954-55 and 1955-56, directed the assessing officers to proceed afresh after considering, among other things, whether the assessment and demand for any particular period covered by notices is within the period of limitation allowed by law. Under Rule 33 of the General Sales Tax Rules, 1950, which provides for the assessment of tax or levy of licence fee which has escaped assessment or levy during any financial year, the assessment or reassessment of tax or levy or revision of licence fee has to be made within three years from the close of the year to which the tax or licence fee relates. In order to assess, levy and collect tax on the explanation sales effected during the period from 1st April, 1953 to 6th September, 1955 it is necessary that the period of limitation for making assessment or reassessment of tax or levy of licence fee should be enhanced to ten years by amending the Act. It is also necessary to give retrospective effect to the amendment and also to validate the assessment and levy of taxes and licence fees already made.

The High Court of Kerala in T.R.C. No. 60 and 69 of 1961 has held that 'cashewnut including its kernel' as used in schedule I of the General Sales Tax Act, 1125 and the notification issued under section 5(vii) of that Act means cashewnut inclusive of its kernel, that is, the whole or unshelled nut with kernel inside. According to this judgment the cashewnut with shell alone will attract the single point last purchase tax and the cashewnut kernel will be liable to multi-point tax. In T.R.C. No. 58 of 1961 the High Court adopted the very same view in respect of the item 'coconut including copra' occurring in Schedule I of the Act. But the intention in using the expressions 'cashewnut including its kernel' and 'coconut including copra' in Schedule I of the Act was to bring both cashewnut with or without shells as well as coconut and copra under the single point scheme of tax. It was also intended to avoid double taxation in such cases by giving exemption to cashewnut with shells or coconut in cases where taxes has been levied on cashewnut kernel or copra, produced from such cashewnut or coconut. Accordingly sales tax has been assessed, levied and collected on the purchase of cashewnut kernel and copra from 1st April, 1958 onwards. To overcome the difficulties that have arisen consequent on the judgment it is considered necessary to validate them by suitably amending the Act.

The Bill is intended to achieve the above objects.

R. SANKAR.

Registered No. M. 7463.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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L. A. Bill No. 20 of 1963.

NOTIFICATION

No. 1772|LA.4|63. *Dated, Trivandrum, 24th March 1963.*

The following Bill together with the Statement of Objects and reasons and the Financial Memorandum is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Legislature Secretariat,
Trivandrum.

D. Tirumalai,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1963.

THE AGRICULTURAL INCOME TAX (AMENDMENT) BILL, 1963.

A

BILL

further to amend the Agricultural Income-tax Act, 1950.

Preamble.—WHEREAS it is expedient further to amend the Agricultural Income-tax Act, 1950, for the purposes hereinafter appearing;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Agricultural Income-tax (Amendment) Act, 1963.

(2) This section shall come into force at once; section 4, Section 11, Section 19 and sub-clause (a) of clause (1) of Section 20 shall be deemed to have come into force on the 1st day of April, 1962; and the remaining provisions of this Act shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Amendment of section* 2.—In Section 2 of the Agricultural Income-tax Act, 1950 (Act XXII of 1950), hereinafter referred to as the principal Act,—

(1) in clause (a),—

(a) in sub-clause (1), the following words shall be added at the end, namely:—

"and is either assessed to land revenue in the State or subject to a local rate assessed and collected by officers of the Government as such;";

(b) in sub-clause (2),—

(i) the words "in the State" shall be omitted;

(ii) for item (ii), the following item shall be substituted, namely:—

"(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or";

(2) for clause (kk) the following clause shall be substituted, namely:—

"(kk) "Hindu undivided family" includes an undivided Marumakkathayam tarwad or thavazhi, an undivided Aliyasanthana family or branch, an illom governed by the Kerala Nambudiri Act, 1958 and an undivided Mitakshara family;";

33|1068

(3) in clause (m), for the words "an undivided Hindu Mitakshara family, an Aliyasanthana family or branch, a Marumakkatbayam tarwad or a thavazhi possessing separate properties or a Nambudiri, Moothathu or other family to which the rule of impartibility applies", the words "a Hindu undivided family" shall be substituted;

(4) in clause (s), for the words, brackets, letters and figures "clauses (a), (c) and (d) of section 10", the words, brackets, letters and figures "clauses (a), (c) and (d) of sub-section (1) of section 10" shall be substituted.

3. *Amendment of section* 3.—In section 3 of the principal Act,—

(1) in sub-section (3), for the words "an undivided Aliyasanthana family or branch or Marumakkathayam tarwad including a Nambudiri family or a family like that of the Moothathu or any other clause governed by the law applicable to Nambudiries consisting of more than five members", the words "a Hindu undivided family consisting of more than five members entitled to claim a share on partition" shall be substituted;

(2) sub-section (4) shall be omitted.

4. *Omission of section* 3A.—Section 3A of the principal Act shall be omitted.

5. *Amendment of section* 10.—Section 10 of the principal Act shall be renumbered as sub-section (1) of that section, and,—

(1) in sub-section (1) as so re-numbered,—

(a) in clause (a), for the words "a Hindu undivided family, Aliyasanthana family or branch or Marumakkathayam tarwad if he receives such sum as a member of the family or tarwad", the words "a Hindu undivided family if he receives such sum as a member of the family" shall be substituted;

(b) in sub-clause (ii) of clause (e), for the words "a Hindu undivided family or Aliyasanthana family or branch or Marumakkathayam tarwad, to effect an insurance on the life of any member of such family, or tarwad", the words "a Hindu undivided family, to effect an insurance on the life of any member of such family" shall be substituted;

(c) after clause (e), the following clause shall be inserted, namely:—

"(f) any sum paid by such person as donation to a trust, institution or fund to which this clause applies, durng any period when it so applies;"

(2) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

(2) Clause (f) of sub-section (1) applies to any trust for charitable purposes or to an institution or fund established for charitable purposes, which has been notified by the Government in this behalf in the Gazette, and for such period, whether before or after the commencement of the Agricultural Income-tax (Amendment) Act, 1963, as may be specified in the notification."

6. *Substitution of new section for Section* 16.—For section 16 of the principal Act, the following section shall be substituted, namely:—

"16. Appellate Tribunal:— (1) the Government shall appoint an Appellate Tribunal consisting of a Chairman and two other members to perform the functions assigned to the Appellate Tribunal by or under this Act. The Chairman shall be a person who is or has been a Judicial Officer not below the rank of a District Judge and the other two members shall possess such qualifications as may be prescribed."

(2) Any vacancy in the office of a member of the Appellate Tribunal shall be filled by the Government.

(3) (a) The functions of the Appellate Tribunal may be performed—

(i) by a Bench consisting of all the members of the Tribunal, or

(ii) by a Bench consisting of two members constituted by the Chairman, or

(iii) when the office of a member other than the Chairman is vacant, by a Bench consisting of the Chairman and the other member:

Provided that, if any case which comes up before a Bench (of which the Chairman is not a member) involves a question of law, the Bench may, in its discretion, reserve such case for decision by a Bench to be constituted under this clause of which the Chairman shall be a member.

(b) Where an appeal or application is heard by a Bench consisting of all the three members of the Tribunal and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal or application is heard by a Bench consisting of two members and the members are divided in their opinion on any point, the point shall be referred for decision to a Bench consisting of all the members.

(4) The Appellate Tribunal shall, with the previous sanction of the Government, make regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4) shall be published in the Gazette.

7. *Amendment of section 17.*—In the proviso to sub-section (4) of section 17 of the principal Act, for the words "three years", the words "five years" shall be substituted.

8. *Amendment of section 18.*—In clause (b) of sub-section (5) of section 18 of the principal Act, for the expression "the Income-tax Officer", the expression "the Agricultural Income-tax Officer" shall be substituted.

9. *Amendment of section 21.*—In sub-section (1) of section 21 of the principal Act, for the words "Other than a Hindu undivided family, Aliyasanthana family or branch, Marumakkathayam tarwad", the words "other than a Hindu undivided family" shall be substituted.

10. *Substitution of new section for section 29.*—For section 29 of the principal Act, the following section shall be substituted, namely:—

"29. *Assessment after partition of a Hindu undivided family.*—(1) Where at the time of making an assessment under section 18, it is claimed by or on behalf of any member of a Hindu family hitherto assessed as undivided that a partition has taken place among the members or groups of members of such family, the Agricultural Income-tax Officer shall make such inquiry thereinto as he may think fit, and if he is satisfied that the joint family property has been partitioned among the various members or groups of members in definite portions he shall record an order to that effect:

Provided that no such order shall be recorded until notice of the inquiry has been served on all the adult members of the family entitled to the property as far as may be practicable or in such other manner as may be prescribed.

(2) Where such an order has been passed, the Agricultural Income-tax Officer shall make an assessment of the total agricultural income received by or on behalf of the family as such, as if no partition had taken place, and each member or group of members shall, in addition to any agricultural Income-tax for which he or it may be separately liable, and notwithstanding anything contained in clause (a) of sub-section (1) of section 10, be liable for a share of the tax on the incomes so assessed according to the portion of the family property allotted to him or it and the Agricultural Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 18:

Provided that all the members and groups of members whose family property has been partitioned shall be liable

jointly and severally for the tax on the total agricultural income received by or on behalf of the family as such up to the date of the partition.

(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purpose of this Act, to continue to be a Hindu undivided family."

11. *Amendment of section 31.*—In sub-section (1) of section 31 of the principal Act, the figure and letter "3A" shall be omitted.

12. *Amendment of section 35.*—Section 35 of the Principal Act shall be renumbered as sub-section (1) of that section and—

(i) in sub-section (1) as so renumbered,—

(a) for the words "three years", the words "five years" shall be substituted;

(b) after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that the Agricultural Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so.";

(ii) after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) No order of assessment under section 18 or of assessment or re-assessment under sub-section (1) of this section shall be made after the expiry of five years from the end of the year in which the agricultural income was first assessable:

Provided that where a notice under sub-section (1) has been issued within the time therein limited, the assessment or reassessment to be made in pursuance of such notice may be made before the expiry of one year from the date of the service of the notice even if at the time of the assessment or reassessment the five years aforesaid have already elapsed:

Provided further that nothing contained in this section limiting the time within which any action may be taken or any order, assessment or reassessment may be made shall apply to a reassessment made under section 19 or to an assessment or reassessment made in consequence of, or to give effect to, any finding or direction contained in, an order under section 31, section 32, section 34 or section 60.

(3) In computing the period of limitation for the purposes of this section, any period during which the assessment proceeding is stayed by an order or injunction of any court or other competent authority shall be excluded."

13. *Omission of section 37.*—Section 37 of the principal Act shall be omitted.

14. *Amendment of section 42.*—In sub-section (1) of section 42 of the principal Act,—

(i) for the words "a Hindu undivided family, Aliyasanthana family or branch or Marumakathayam tarwad", the words "a Hindu undivided family" shall be substituted;

(ii) the words "or tarwad" shall be omitted.

15. *Amendment of section 56.*—In section 56 of the principal Act, for the words "Hindu undivided family, undivided Aliyasanthana family or branch or Marumakkathayam tarwad", the words "Hindu undivided family" shall be substituted.

16. *Amendment of section 57.*—In section 57 of the principal Act, for the words "Hindu undivided family, undivided Aliyasanthana family or branch or Marumakkathayam tarwad", the words "Hindu undivided family" shall be substituted.

17. *Amendment of section 58.*—In section 58 of the principal Act, for the words, brackets, letters and figures "clauses (c), (d) and (e) of section 10", the words, brackets, letters and figures "clauses (c), (d) and (e) of sub-section (1) of section 10" shall be substituted.

18. *Amendment of section 64.*—In sub-section (2) of section 64 of the principal Act,—

(i) for the words "Hindu undivided family, Aliyasanthana family or branch or Marumakkathayam tarwad", the words "or Hindu undivided family" shall be substituted;

(ii) for the words "or to the Manager or Karanavan or any adult member of the family or tarwad", the words "or to the Manager, Karanavan or Yejman, as the case may be or any adult member of the family" shall be substituted.

19. *Amendment of section 67.*—In sub-section (2) of section 67 of the principal Act, clause (cc) shall be omitted.

20. *Amendment of Schedule.*—In the Schedule to the principal Act,—

(1) in Part I,—

(a) after the heading "(Rates of Agricultural Income Tax)" and before the entries thereunder, the following shall be inserted, namely:—

"A. Where the total agricultural income does not exceed seven thousand rupees.

		Rate.
1.	Where the total agricultural income does not exceed Rs. 5,000	Rs. 75
2.	Where the total agricultural income exceeds Rs. 5,000 but does not exceed Rs. 6,000	Rs. 150
3.	Where the total agricultural income exceeds Rs. 6,000 but does not exceed Rs. 7,000	Rs. 250

B. Where the total agricultural income exceeds seven thousand rupees";

(b) in the paragraph after the first proviso, for the words "every Hindu undivided family or an Aliyasanthana family or branch or a Marumakkathayam tarwad including a Nambudiri family or a family like that of the Moothathu or any other class governed by the Law applicable to Nambudiries, which satisfies as at the end of the previous year the condition that it consists of at least five members", the following words shall be substituted, namely:—

"every Hindu undivided family which satisfies as at the end of the previous year the condition that it consists of at least five members entitled to claim a share on partition:";

(2) in Part II, in paragraph A, for the words "Hindu undivided family or any Aliyasanthana family or branch or undivided Marumakkathayam tarwad", the words "Hindu undivided family" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Under article 366(1) of the Constitution "agricultural income" means "agricultural income as defined for the purposes of the enactments relating to Indian Income-tax." According to the definition of this term in the Income-tax Act, 1961, rent or revenue from lands used for agricultural purposes will be treated as agricultural income only if the land from which the rent or revenue is derived is either assessed to land revenue or subject to a local rate assessed and collected by officers of the Government as such. But, under the definition of the term in Section 2(a) of the Agricultural Income Tax Act, 1950, it is not necessary that the land from which the rent or revenue is derived is either assessed to land revenue or subject to a local rate assessed and collected by officers of the Government as such. It is considered necessary to make the definition of "agricultural income" in the Act consistent with the provision of article 366(1) of the Constitution. For this purpose, the definition is proposed to be amended to be on the lines of the definition in the Income-tax Act.

Section 2(kk) of the principal Act defines Hindu undivided family so as to include families governed by the Madras Nambudiri Act, 1932. This Act has now been repealed by the Kerala Namboodiri Act, 1958, which is applicable to the whole State. Further, the expressions "Hindu undivided family", "undivided Hindu family", "undivided Hindu Madras Nambudiri Act, 1932. This Act has now been repealed the Principal Act without any uniformity. It is proposed to define the expression "Hindu undivided family" as to take in undivided Marumakkathayam tarwad or thavazhi, an undivided Aliyasanthana family or branch, an illom governed by the Kerala Namboodiri Act and an undivided Mitakshara family, and to use that expression alone in the various sections.

Sub-sections (3) and (4) of section 3 of the principal Act provides for certain concessions in the matter of assessment in the case of undivided families. The concession differs in the case of Marumakkathayam Tarwad, Aliasanthana family and Namboodiri families to whom sub-section (3) applies and undivided Hindu families to whom sub-section (4) is applicable. It is considered that this differential treatment is not necessary and that all such undivided families should be governed by sub-section (3). Sub-section (4) is accordingly proposed to be omitted. Sub-section (3) is also proposed to be amended to make it clear that for its application there should be more than five members entitled to a share on partition.

Section 3A permits assessees, other than companies, whose total agricultural income does not exceed Rs. 5,000 per annum to compound the agricultural income tax payable by him and pay a consolidated amount of Rs. 75. It is proposed that instead of permitting such composition on application, provision should be made that the agricultural income-tax payable by such persons should be Rs. 75 per year. It is also proposed that the income-tax payable by assessee (other than companies) whose agricultural income ranges between Rs. 5,000 and Rs. 6,000 and Rs. 6,000 and Rs. 7,000 should also be fixed as Rs. 150 and Rs. 250 respectively. Accordingly, section 3A is proposed to be omitted and Part I of the Schedule is proposed to be amended suitably.

The Mundakayam Medical Trust which has launched a programme of charitable service to the public has requested that donations made to the trust might be exempted from the levy of agricultural income tax. On examining the request, Government felt that a provision should be made to the effect that agricultural income tax shall not be payable on that part of the total agricultural income of a person which is paid by him as donation to a trust for charitable purposes or to an institution or fund established for charitable purposes, which has been notified by the Government in that behalf in the Gazette.

Section 16 of the pricipal Act empowers the Government to appoint an Appellate Tribunal consisting of one or more members. Since the same Tribunal is functioning as Agricultural Income Tax Appellate Tribunal and Sales Tax Appellate Tribunal, it is considered necessary to recast section 16 on the lines of the provision for the constitution of the Appellate Tribunal contained in the General Sales Tax Act.

Section 35 of the principal Act provides that if for any reason agricultural income chargeable to tax under the Act has escaped assessment in any financial year or has been assessed at too low a rate, the Agricultural Income Tax Officer may, at any time within three years of the end of that year, serve on the person liable to pay tax or in the case of a company,

on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 17 and may proceed to assess or re-assess such income. It is proposed to enhance the time limit of three years mentioned in this section to five years. It is also considered necessary that provision should be made in the section for excluding the period during which the assessment proceeding is stayed by an order or injunction of any Court or other competent authority in computing the period of limitation.

Section 37 of the principal Act provides for rounding of fraction of an anna. In view of the introduction of the decimal system of coinage this provision has become unnecessary and is therefore proposed to be omitted.

The Bill is intended to achieve the above objects.

FINANCIAL MEMORANDUM

Section 16 of the Agricultural Income Tax Act provides for the constitution of an Appellate Tribunal consisting of one or more members. The Appellate Tribunal constituted under the above section now consists of three members. The object of the clause 6 of the Bill is to statutorily fix the number of members of the Tribunal as 3. Since the Tribunal now functioning also consists of 3 members, no additional expenditure from the Consolidated Fund of the State would be involved if clause 6 of the Bill is enacted and brought into operation. There is no other provision in the Bill which involves expenditure from the Consolidated Fund of the State.

R. SANKAR.

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